



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 4398-01
30 November 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 November 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, although incomplete, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The records in your case are incomplete. However, those records show that you enlisted in the Navy on 30 June 1977 at the age of 19. Your record shows that on 27 September 1977 you received nonjudicial punishment (NJP) for a day of unauthorized absence (UA) and were awarded restriction and extra duty for 10 days. On 8 May and again on 31 July 1978 you received NJP for absence from your appointed place of duty, two specifications of missing the movement of your ship, and a 32 day period of UA.

Your record further reflects that on 6 April 1979 you were convicted by summary court-martial (SCM) of four periods of UA totalling 10 days and breaking restriction. You were sentenced to confinement at hard labor for 30 days and a \$278 forfeiture of pay. On 24 May 1979 you received your fourth NJP for drunk and disorderly conduct. The punishment imposed was restriction for 30 days and a \$400 forfeiture of pay.

Your record also reflects that on 31 July 1979 you began a 121 day period of UA that was not terminated until you were apprehended by civil authorities on 29 November 1979. On 30

November 1979 you began a 967 day period of UA that was not terminated until you were apprehended by civil authorities on 25 July 1982. During these two periods of UA you were also declared a deserter.

The record contains no documentation pertaining to the administrative or judicial action taken against you as a result of the foregoing periods of UA, which totalled 1,088 days. However, the record does contain an entry dated 8 October 1982, which reflects that you were advised of certain post separation entitlements. The record is also incomplete in that there is no Certificate of Release or Discharge From Active Duty (DD Form 214). The Board, however, noted that on your Application for Correction of Military Record (DD Form 149), you stated that you were discharged under other than honorable conditions on 10 October 1982, and concluded that such a discharge is consistent with all of the foregoing.

The Board, in its review of your record and application, carefully considered all mitigating factors, such as your youth and immaturity, and your contention that you had intended to reenlist, but were advised by counsel to leave the Navy. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent misconduct, which resulted in four NJPs and a court-martial conviction, and the two lengthy periods of UA ending in July 1982. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director